

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

RAYMOND WARE,

Plaintiff,

vs.

SIDNEY HAYAKAWA, Director of
Transportation Security Administration-
Honolulu, KEN KAMAHELE, Deputy Director,
Transportation Security Administration-
Honolulu; TRANSPORTATION SECURITY
ADMINISTRATION; MICHAEL CHERTOFF,
SECRETARY, Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; JOHN DOES 1-5

Defendant.

Case No. CV:04-00671-HG-LEK

SECOND DECLARATION OF PETE MARCELLO

I, Pete Marcello, make the following declaration in lieu of an affidavit, as permitted by Section 1746 of Title 28 of the United States Code. I am aware that this declaration will be filed with the United States District Court for the District of Hawaii and that it is the legal equivalent of a statement under oath.

1. Presently, I am the Program Manager for re-certification in the Office of Human Capital for the Transportation Security Administration (TSA) in Arlington, Virginia. My office is responsible for the development and implementation of the assessment test modules that are used in the re-certification of Transportation Security Officers (Screeners). The information contained herein that is based upon information gathered from the TSA database system that maintains information related to the re-certification process.

2. The Aviation and Transportation Security Act (ATSA), Public Law 107-71, 115 Stat. 597, requires that all Screeners, including Lead and Supervisory Transportation Security Officers, have an annual proficiency review (re-certification). The ATSA does not require that Screening Managers recertify, and therefore, Screening Managers do not undergo the annual re-certification process. Exhibit A at ¶ 2, Scope

3. In 2003, Richard Kidani, who was then an HNL employee, failed Module 2 of the re-certification process. The initial test was failed on November 7 and the retest on November 8, 2003. My records indicate that Mr. Kidani requested reconsideration of the re-certification decision by making an appeal to the Federal Security Director (FSD) at the Honolulu International Airport. The FSD followed the procedures and sent reconsideration requests to the TSA Re-certification Review Board. The Board last denied the request in January 2004.

4. In 2003-05, John Hennessy passed the re-certification process on his first attempts. My records indicate that Mr. Hennessy never underwent the re-certification process for passenger screening; rather, he always tested and passed the baggage screening re-certification process. Mr. Hennessy's single certification for baggage screening permitted him to remain in his Screener position with TSA.

I have read the above pages, and I declare under penalty of perjury that the information stated there is true and correct to the best of my knowledge.

Executed on September 7, 2006


PETE MARCELLO